

MDT Indirect Cost Rate Requirements

effective January 1st, 2014

What the Proposed Rule (draft 23CFR) says regarding indirect cost rates for Engineering, Surveying, and Architecture (ESA) work on Federal-aid highway projects:

- All federally-reimbursed costs must comply with Federal cost principles **§172.11(a)(1)**
- If a firm has an indirect cost rate, it must be FAR compliant **§172.11(b)(1)(i)**
- DOT must ensure that indirect cost rates are FAR compliant **§172.11(b)(1)**
 - How the DOT ensures that is up to them:
 - If an indirect cost rate has been established by a cognizant agency by audit or review of independent audit and work papers, this need is satisfied and the DOT must accept the rate **§172.11(b)(1)(ii)**
 - If a cognizant rate is not available, the DOT has the following options to ensure the rate is FAR compliant **§172.11(b)(1)(iii)**:
 - A. Perform an audit of the Consultant's rate with their own(DOT) personnel
 - B. Review an independent audit and related work papers (Cognizant Audit Review)
 - C. Establish a temporary provisional rate, with the contract costs being adjusted later based on an approved audited final rate
 - D. Perform a Risk Assessment

The MDT has elected to utilize the Risk Assessment method to ensure indirect cost rates are FAR compliant. Although this method is based on a draft Proposed Rule, it fully complies with current regulations. The method selected is the most beneficial to all parties (MDT and Consultants), allows for more flexibility while ensuring federal reimbursement compliance, and allows distribution of risk to both parties. The following presents the policy for indirect cost rates. This policy applies to both **ESA** and **non-ESA** work, as well as both **prime consultants** and **sub-consultants**.

- If the total contract value or amount of work is \$50,000 or under (including sub-consultant compensation and all other costs), an indirect cost rate is not required (loaded/fully burdened rates are allowed);
- If the total contract value or amount of work is more than \$50,000, up to and including \$250,000 (including sub-consultant compensation and all other costs), an indirect cost rate is required. While an audited rate is not mandated in this case, a Risk Assessment will be completed to aid the MDT in determining if the rate may be unaudited or if an indirect cost rate audit report prepared by an authorized external agency (i.e. independent CPA firm, cognizant agency) is required;
- If the contract value or amount of work is more than \$250,000 (including sub-consultant compensation and all other costs), then the consultant must submit an indirect cost rate audit report prepared by an authorized external agency (i.e. independent CPA firm, cognizant agency);
- Regardless of contract size or total amount of services (prime or sub-consultant), if the firm has an indirect cost rate accepted by MDT or has a cognizant audit from another cognizant agency, the rate must be used;
- For cases where an indirect cost rate is required (audited or unaudited):
 - The rate must be based the firm's latest completed fiscal year's costs;
 - A six-month grace period for obtaining a rate is generally allowed following the close of a firm's fiscal year;
 - Establishment of the rate must follow the parameters established in the most current version of the AASHTO Audit Guide;

- A rate is not required for sub-consultant professional services that are commodity-type services using unit prices or fee schedules such as laboratory testing and drilling subcontracts, or services commonly provided on a per unit basis;
 - The consultant must prepare and submit a Risk Assessment Package, consisting of:
 - 1) Internal Control Questionnaire (ICQ) ,
 - 2) Indirect Cost Rate Certification,
 - 3) Executive Compensation Matrix (NCM), and
 - 4) Indirect Cost Rate Schedule
- AASHTO's Audit web page (<http://audit.transportation.org/Pages/default.aspx>) contains information on items 1 and 3, as well as the AASHTO Audit Guide and other valuable information on indirect cost rates. The AASHTO Audit Guide provides information on how to complete an Indirect Cost Rate Schedule (item 4). The Indirect Cost Rate Certification form (item 2) can be found on MDT's webpage: (http://www.mdt.mt.gov/publications/docs/forms/contracting/indirect_costs.pdf)
- The Risk Assessment Package is not required if the firm is submitting a cognizant audit from another cognizant agency. Only one Risk Assessment is needed for each consultant fiscal year.

The dollar thresholds in the above policies refer to the contract size. At the outset of a contract, this will be the original contract amount. However, contract amendments that increase the contract value may result in a different indirect cost rate requirement. For example, if a firm's original contract is \$45,000, an indirect cost rate is not required. However, if an amendment is proposed that puts the total value over \$50,000, then an indirect cost rate (and risk assessment) is required.

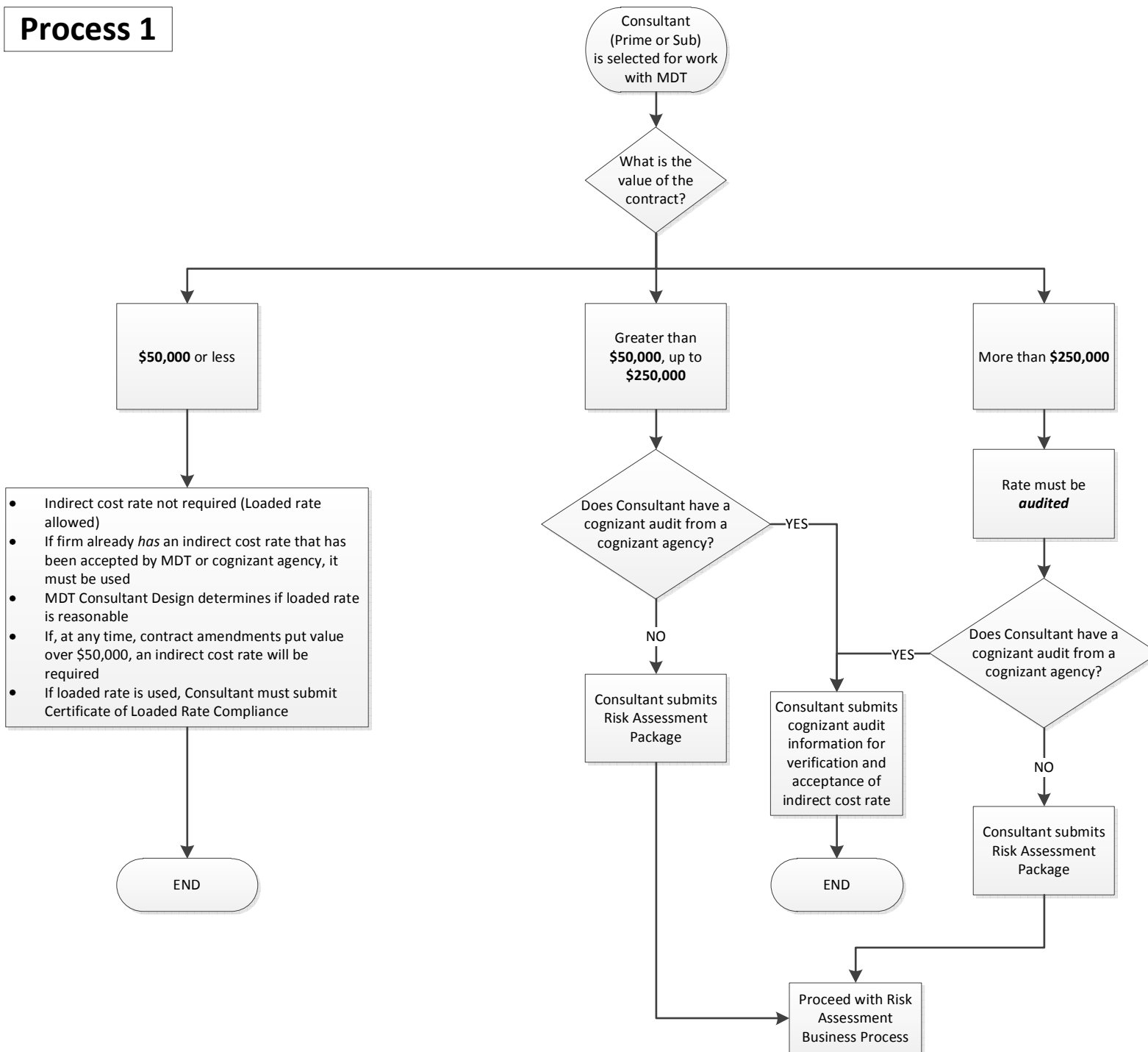
Indirect Cost Rate Requirements

	Prime Consultants		Sub-Consultants	
	ESA	Non-ESA	ESA	Non-ESA
≤ \$50,000	not required	not required	not required	not required
> \$50,000, ≤ \$250,000	unaudited w/Risk Assessment	unaudited w/Risk Assessment	unaudited w/Risk Assessment	unaudited w/Risk Assessment
>\$250,000	audited w/Risk Assessment	audited w/Risk Assessment	audited w/Risk Assessment	audited w/Risk Assessment
Exceptions:	- If firm has a current rate accepted by MDT (or has a cognizant audit rate), it must be used - Sub-consultant Vendor-type services and Contract labor do not require an indirect cost rate - Risk Assessment may result in requirement that an audited rate be submitted in place of unaudited rate - Cognizant Audited Rate does not require Risk Assessment			

EXAMPLES

- **Scenario 1:** ABC Engineering is selected to complete the engineering work for a project with MDT. ABC Engineering is the prime consultant, and thereby the contract holder with MDT. The value of the contract is expected to be over \$250,000 (including sub-consultant work and all other costs).
Indirect Cost Rate requirement: An indirect cost rate audit is required for ABC Engineering for the life of the contract. If it is a *fixed rate* contract, the rate accepted by MDT at the time of the initial contract will remain the same through the original contract expiration date. If it is an *annual rate* contract, ABC Engineering will need to submit an updated indirect cost rate audit each year.
- **Scenario 2:** ABC Engineering is selected to complete the engineering work for a project with MDT. ABC Engineering hires XYZ Consulting as a sub-consultant. The amount of work that XYZ Consulting is expected to complete on the project is expected to be less than \$50,000.
Indirect Cost Rate requirement: An indirect cost rate for XYZ Consulting is not required, so a loaded rate may be used. However, if XYZ Consulting already has a current indirect cost rate that has been accepted by MDT or a cognizant agency, the indirect cost rate must be used. MDT will determine reasonableness of the loaded rate, if used.
- **Scenario 3:** ABC Engineering was selected to complete the engineering work for a project with MDT. ABC Engineering hired XYZ Consulting as a sub-consultant. At the time of the contract execution, XYZ Consulting was expected to complete their work for less than \$50,000. However, some additional work is required that will put XYZ Consulting's compensation over \$50,000.
Indirect Cost Rate requirement: An indirect cost rate for XYZ Consulting is now required. If the total compensation will remain under \$250,000, an audited indirect cost rate is not required by rule, but could be required as a result of the Risk Assessment. If the total compensation is expected to go over \$250,000, an indirect cost rate audit is required by rule. The contract amendment will not be executed until an indirect cost rate is established and accepted.
- **Scenario 4:** ABC Engineering is selected for a term contract with MDT. The value of the term contract is \$100,000.
Indirect Cost Rate requirement: An indirect cost rate is required for ABC Engineering for the life of the term contract. ABC Engineering must submit a Risk Assessment Package. If it is a *fixed rate* contract, the rate accepted by MDT at the time of the initial contract will remain the same through the original contract expiration date. If it is an *annual rate* contract, ABC Engineering will need to submit an updated indirect cost rate and Risk Assessment Package each year. The indirect cost rate requirement in this scenario is based on the value of the term contract, regardless of whether or not any task/term assignments are executed. If the contract value of the term contract is amended at any time (fixed rate or annual rate contract) that puts the value of the contract at more than \$250,000, an audited rate is required.

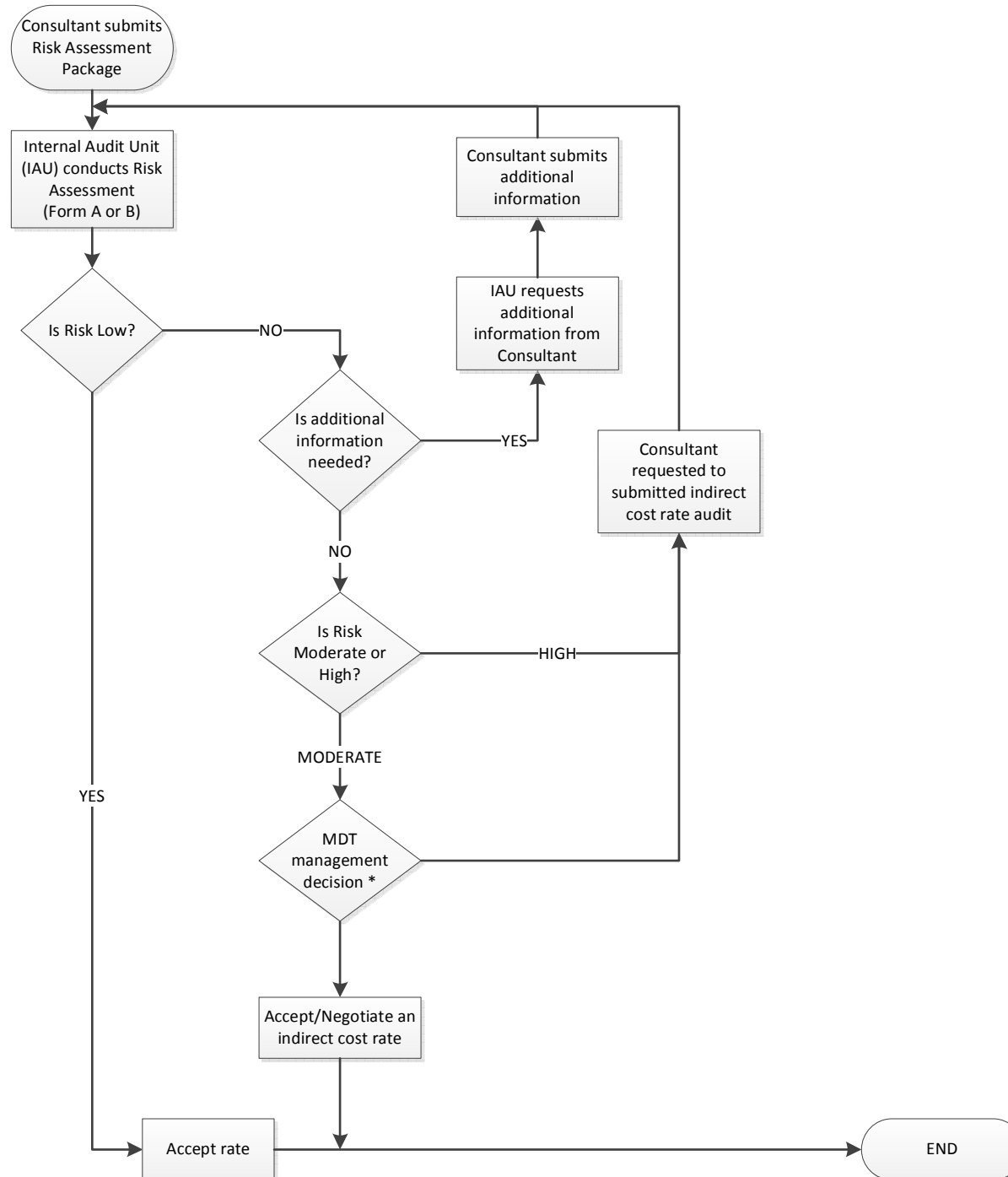
Process 1



Risk Assessment Package consists of:

- 1) Internal Control Questionnaire (ICQ)
- 2) Indirect Cost Rate Certification
- 3) Executive Compensation Matrix
- 4) Indirect Cost Rate Schedule

Risk Assessment Business Process



* MDT Management Decision Process

- 1) IAU makes recommendation to either accept/negotiate a rate or to require an audit. Recommendation will include reasons/justification for recommendation.
- 2) Indirect Cost Rate Review Team reviews recommendation and makes decision. Review Team consists of:
 - Chief Engineer
 - IAU Manager
 - Consultant Design Engineer

Annual Review Process

* If any payments or amendments are expected in the next one (1) year, an updated rate should be submitted.

